



June 17, 2026

VIA ELECTRONIC DELIVERY

Ms. Michelle Zaludek
Records Access Officer
New York State
Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: Filing Pursuant to Case No. 03-E-1761 - TRADE SECRET REQUEST - CONTAINING
TRADE SECRET MATERIAL.

Dear Ms. Zaludek:

In Case No. 03-E-1761, “Proceeding on Motion of the Commission to Reexamine Policies and Tariffs for Flexible Rate Contract Service to Economic Development Customers,” the Commission required electric utilities to file with the Commission a quarterly summary of flex rate contract activity, subject to full confidentiality protection for the individual customer information listed therein. See Order Approving Guidelines for Flexible Rate Service Contracts (Issued and Effective April 14, 2005; hereinafter referred to as the “Flex Rate Order”) p. 29. The Commission went on to state that any disclosure of customer information contained in the quarterly summary would likely result in a substantial competitive injury to the flex rate customer and thus trade secret protection would be given. See id. Niagara Mohawk Power Corporation, d/b/a National Grid (“National Grid” or “Company”) is filing a copy of its **second quarter of 2026 summary** (the “Flex Rate Contract Summary”) as required by the Flex Rate Order and is seeking trade secret protection for the Flex Rate Contract Summary.

Pursuant to 16 NYCRR § 6-1 et seq., Sections 87 and 89 of the Public Officers Law and the Flex Rate Order, National Grid hereby submits this request for trade secret protection for the Flex Rate Contract Summary. As set forth herein, the information contained in the Flex Rate Contract Summary is confidential and should be treated as confidential trade secret information, in accordance with the Flex Rate Order, Section 6-1.3 of the Regulations and Section 87(2) (d) of the Public Officers Law (“Freedom of Information Law” or “FOIL”). N.Y. Pub. Off. Law § 87; 16 N.Y.C.R.R. § 6-1.3.

By way of background, trade secret protection is warranted “if disclos [ure] would cause substantial injury to the competitive position of the subject enterprise.” N.Y. Pub. Off. Law §87(2) (d) (Supp. 2007); see also 16 N.Y.C.R.R. § 6-1.3. In determining whether information should be considered for confidential treatment, the Commission's regulations provide for six non-exclusive factors to be considered in this analysis. Those factors include:

1. the extent to which disclosure would cause unfair economic or competitive damage;
2. the extent to which the information is known by others;
3. the value of the information to the possessor of the data and its competitors;
4. the difficulty and cost of developing the information;
5. the difficulty in recreating the data without permission; and
6. whether the data is otherwise exempted by law from disclosure. Id. at §6-1.3(b) (2).

National Grid respectfully submits that the information contained in the Flex Rate Contract Summary meets the governing standard. Moreover, the Commission in the Flex Rate Order stated that individual customer information provided in the Flex Rate Contract Summary was commercially sensitive and disclosure would result in substantial competitive harm. If a party was given access to this information, it could possibly determine who the information pertained to which could then be used to the competitive disadvantage of the particular customer. Moreover, the summary of the customer information contained in the report should also be protected because it could be used by a potential flex rate customer in its negotiations with the Company or by a third party to help identify customers with flex rate contracts.

Factors other than the prospect of competitive harm and unfair advantage offer further justification for granting trade secret protection for the Flex Rate Contract Summary. The Flex Rate Contract Summary is not available publicly nor is it known by others outside the Company and replication of the information contained therein would be impossible. A flex rate contract customer does not expect the information relating to its contract, its business arrangements with the Company or the existence of the flex rate contract itself to be made public. National Grid believes that customer information as well as its commercial dealings with its customers are private and confidential and should be protected by the Commission and not made public just because a customer received a flex rate contract. The Company believes that the Commission should also take this factor into consideration when making its determination. Thus, none of the non-exclusive factors listed in 16 NYCRR Section 6-1.3(b) (2) weighs in favor of disclosure.

Finally, the Commission ruled in the Flex Rate Order that customer information contained in the Flex Rate Contract Summary was commercially sensitive and the disclosure of the information “would likely result in a substantial competitive injury to the flex rate customer.” See Flex Rate Order at 29. The Commission also stated that customer information contained therein will be granted trade secret protection. See *id.* Thus, trade secret protection should be given to all customer information contained in the Flex Rate Contract Summary based on the Commission’s ruling in the Flex Rate Order. The Company also believes that the summary of the customer information contained in the Flex Rate Contract Summary should be protected based on the intent and spirit of the Flex Rate Order. See *id.*

For the foregoing reasons and as provided in the Flex Rate Order, National Grid respectfully requests that the Flex Rate Contract Summary be exempted from public disclosure and/or granted trade secret status.

This filing is being filed with the Records Access Officer at recordsaccessofficer@dps.state.ny as directed by correspondence dated May 2, 2008 from Mr. Steven Blow.

Respectfully submitted,

/s/ Elliott Negron Jr

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cc: Patric O'Brien